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Submission on Aerospace Certification Regulatory Reform

Dear Mr Banks

I am writing this submission as Chair of the Stakeholders Reference Group (SRG) on aerospace certification to draw your attention to regulatory reform issues affecting the aerospace industry. The SRG was established through the invitation of the Ministers for Industry Tourism and Resources, and Transport and Regional Services. The creation of the SRG was in accordance with the recommendations of the Aerospace Industry Action Agenda which received Cabinet endorsement on 26 August 2003.

The SRG consists of representatives from the aerospace industry who have committed themselves, at their own expense, to cooperate with Government in the effort to assist their industry. The purpose of the SRG is to identify and remove impediments to growth in the Aerospace industry in the area of certification of aeronautical products and to foster export development. The SRG will accomplish this by suggesting improvements in the efficiency, effectiveness and consistency of aircraft certification undertaken by the Civil Aviation Safety Authority (CASA).

As background to the current scenario, during the 1990's, CASA began a regulatory framework review of the existing Civil Aviation Regulations. The intent was to review and where appropriate, adopt world's best practice in the area of civil aviation regulation. In 1998, CASA introduced the first of the new regulations which were essentially aligned with those of the United States Federal Aviation Administration (FAA) and the European Union European Aviation safety Agency (EASA), the latter having essentially harmonised its regulations with the FAA earlier. The new CASA regulations, known as the Civil Aviation Safety Regulations (CASR) mirror those of the FAA and EASA in most respects, with some exceptions. This harmonisation of the Australian regulatory regime continues today and is expected to be complete within the next few years. This will mean the phasing out of the remaining, but still active, Civil Aviation Regulations (1988) which co-exist with the new CASR's.

The Aerospace Industry Action Agenda, together with other CASA Standards Consultative Committees (SCC), continues to address regulatory reform issues in order to lighten the regulatory burden on the aerospace industry. To this end, industry and CASA have cooperated in the identification of regulatory reforms such as those raised by the Regulatory Taskforce in its background circulars. In the experience of the SRG, there also exist other considerations that can increase the regulatory burden on industry, even when concerted efforts have been made to address overarching issues such as those raised by the taskforce.

In this submission, the SRG would like to highlight two regulatory reform issues that the SRG has encountered when addressing reform in conjunction with CASA. These are:

1. The costs to industry of involvement in the regulatory reform process; and
2. The requirement that bilateral aviation safety agreements be regarded as treaty-level documents.

Costs to industry through involvement in the regulatory reform process

Background

One of the Government's primary processes for reforming the regulatory burden on industry is the Action Agenda program. Action Agendas are conducted on an industry by industry basis. An integral aspect of all Action Agendas is the partnering of industry and government to identify regulatory burdens in order to make recommendations for reforming the relevant regulatory regime. Industry and government work together to implement the recommendations. This process provides government and their regulatory bodies with access to industry expertise that is practiced in demonstrating compliance to not only CASA regulations, but also those of the pre-eminent regulatory bodies both in the United States and the European Union.

Industry involvement

Every phase of the Action Agenda regulatory reform process requires the direct involvement of industry representatives. In order to ensure that the industry is fully represented, participants are sought from large, medium and small enterprises from urban and regional areas from as many states and territories as possible. However, the benefits of the reform process accrue to the industry as a whole, or indeed to broader society, rather than to the specific firms that engage with the reform process.

It is not uncommon for the review of the industry's needs, culminating in a report and recommendations, to take from one to two years. The implementation phase commonly lasts for three years. Additional commitments, such as the SRG, that derive out of Action Agendas can require further industry participation for a number of additional years.

The cost to industry

The example of the Aerospace Industry Action Agenda is instructive. Industry participants have committed to a two year involvement in the review phase, followed by a three year involvement in the implement phase, followed by a two year appointment on the SRG. To be involved from the initiation of the Action Agenda through to service in the SRG would require a commitment of up to seven years.

For practical considerations, most industry representatives opt for a less onerous time commitment. Nonetheless, the Action Agenda process relies upon the willingness of numerous industry representatives to become heavily involved and for many more individuals to make significant contributions. In order to facilitate their involvement, participants are expected to attend regular meetings which often require interstate travel. All travel and travel related expenses are met by the industry representatives themselves or the organisation they represent.

Meetings usually necessitate a half day or full day time commitment and primarily identify actions that are required to advance the work of the Action Agenda. These actions require industry involvement and must be performed in company time or in the participants own free time. Participants in government regulatory reform programs are aware that there is no guarantee of substantial reform or benefits that will outweigh the cost of their involvement.

Summary

The existence of Action Agenda and other government reform programs represents a welcome partnering of government and industry to lessen the regulatory burden on industry. Worthwhile reforms have been achieved and promises of further reforms continue to encourage industry representatives to invest their time and money in new and ongoing regulatory reform programs.

The implementation of the Aerospace Industry Action Agenda has been a useful contribution to the ongoing process of reforming the certification of aeronautical products in Australia. Ensuring that Action Agendas and other regulatory reform processes are adequately resourced by Government increases the willingness and ability of industry representatives to participate in these processes by increasing the effectiveness of the industry contribution. The Regulation Task Force can make a contribution to the detailed ongoing process of reforming complex regulatory environments by considering ways to make these processes more effective, including through increased funding for supporting studies and the other detailed work that is often necessary to underpin regulatory reform.

Treaty level bilateral aviation safety agreements

Background

Throughout the industrialised world, the design, manufacture, and maintenance of aircraft and aircraft components generally requires approval from a national regulator authorised to certify that the work has been performed to the applicable standard. In Australia, CASA (or its delegates through the CASA delegation process) is the body authorised to certify that aerospace design, manufacturing and maintenance has been performed to the applicable national standard. Currently, the Australian standards are embodied in the Civil Aviation Regulations (1988) and the Civil Aviation Safety Regulations (1998).

Generally, CASA accepts foreign certification on aeronautical products coming into Australia without additional compliance evidence. However, the certifying authorities of many foreign countries do not automatically reciprocate by recognising CASA certifications. Previously, some Australian manufacturers have been obliged to pay for foreign certification officials to come to Australia to certify Australian aeronautical products, or to open a branch office in foreign countries to allow certifications to take place overseas. This has created significant additional expenditure, delays and frustrations that have made Australian aerospace products less competitive in world markets and limited the export focus of Australian aerospace manufacturers.

Bilateral Aviation Agreements

A primary means of overcoming this problem is by entering into bilateral aviation agreements with Australia's principal trading partners. The object of these agreements is to ensure that the certifying agencies of the contracting nations consent to recognise the aviation safety certifications of the other contracting party. Ideally, under an agreement between Australia and a third party, certifications conducted by CASA would be automatically recognised by the national airworthiness authority of the third party without any additional requirements.

The United States with its Federal Aviation Authority (FAA) and the European Union with its European Aviation Safety Authority (EASA) are important targets for concluding bilateral aviation agreements as FAA and EASA certifications are recognised by most nations outside the United States and the European Union. The United States and the European Union are also important aerospace markets for Australian manufacturers.

The SRG warmly welcomed the recent signing of a Bi-lateral Aviation Safety Agreement (BASA) between Australia and the United States as this will facilitate new trade opportunities and provide easier access to the United States market for Australian aerospace manufacturers and

exporters. Nonetheless, the SRG is obliged to note that this regulatory success is tempered by considerations that remain unresolved.

Treaty-level status

The BASA negotiations between Australia and United States were very protracted having taken years to finalise. The Executive Agreement (EA) document of the BASA is a treaty level document, and provides the government to government broad executive level agreement that gives power to the lower level Implementation Procedures Airworthiness (IPA), which are effectively the regulator to regulator agreed working arrangements. The Australian requirement to regard the IPA's as a treaty level agreement complicated and added to the delay in finalising the BASA agreement, the IPA's being signed in September of this year.

The status of the IPA between Australia and the United States as a treaty level document has the effect of making the arrangement less flexible. In addition, despite the lengthy negotiations, the BASA does not cover all aspects of aerospace certification. Any attempt to expand the scope of the BASA or to adjust the document to make allowance for prior omissions or new developments will need to be undertaken at the formal level of treaty negotiation. This will undoubtedly take more time and therefore incur more cost to both CASA and the Australian industry.

CASA and the SRG are currently addressing the issue of how best to implement IPA change processes such that those areas currently not addressed in the IPA's may be negotiated. This, however, will not obviate the need to carry the additional burden of treaty level negotiations for changes to the IPA's.

Future regulatory requirements

The Australian aerospace industry requires the recently concluded BASA with the United States to be expanded to cover all aspects of aerospace certification including the production of aircraft parts by non-original suppliers. A similar bilateral aviation agreement (however named) will need to be concluded between Australia and the European Union as well as with other significant current and potential aerospace trading partners.

Bilateral aviation agreements or alternative non-treaty level certification recognition agreements will need to be concluded as quickly as possible and with as much flexibility and range of coverage as possible. An adjustment to the Australian legal framework to avoid the necessity of treaty negotiations and ratifications would represent a significant improvement over the current excessively cumbersome process.

Summary

CASA recognises the requirement to have Australian certification of aerospace regulations recognised internationally. The Australian aerospace industry through the SRG and other bodies and industry committees is cooperating and assisting in this process. Regulatory reform is proceeding in accordance with the Action Agenda recommendations. However, the reform process is being constrained by the Australian treaty regulation framework which is beyond the scope of the SRG or CASA to address.

Regulation Taskforce

As the Australian aerospace industry continues to tailor its design and manufacturing output to feed into the supply chains of the global marketplace, it is imperative that Australian goods are of high quality, are competitively priced, are delivered on time, and meet the required standards and international regulatory requirements. The Australian aerospace industry is confident of the quality of its products but requires regulatory services that are internationally recognised and conducted in a timely manner at a cost that facilitates international competitiveness.

The SRG would be grateful for the assistance of the regulation taskforce in examining the issues raised in this submission. The SRG is confident that together industry and government can achieve world's best practice aerospace certification in Australia.

Yours sincerely,

David Evans

Chair Stakeholder Reference Group
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